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7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10  
11 In the Matter of the Accusation Against:

Case No. **2011-179**

12 **YIPING BO**  
13 **425 Grant Ave. Unit 26**  
**Palo Alto, CA 94306**

**ACCUSATION**

14 **Registered Nurse License No. 657048**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
21 of Consumer Affairs.

22 2. On or about May 2, 2005, the Board of Registered Nursing issued Registered Nurse  
23 License Number 657048 to Yiping Bo (Respondent). The Registered Nurse License was in full  
24 force and effect at all times relevant to the charges brought herein and will expire on January 31,  
25 2011, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing (Board),  
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent  
3 part, that the Board may discipline any licensee, including a licensee holding a temporary or an  
4 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
5 Nursing Practice Act.

6 5. Section 2761 of the Code states:

7 "The board may take disciplinary action against a certified or licensed nurse or deny an  
8 application for a certificate or license for any of the following:

9 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

10 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing  
11 functions.

12 ..."

13 6. California Code of Regulations, title 16, section 1442, states:

14 "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from  
15 the standard of care which, under similar circumstances, would have ordinarily been exercised by  
16 a competent registered nurse. Such an extreme departure means the repeated failure to provide  
17 nursing care as required or failure to provide care or to exercise ordinary precaution in a single  
18 situation which the nurse knew, or should have known, could have jeopardized the client's health  
19 or life."

20 7. California Code of Regulations, title 16, section 1443, states:

21 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the  
22 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and  
23 exercised by a competent registered nurse as described in Section 1443.5."

24 8. California Code of Regulations, title 16, section 1443.5 states:

25 "A registered nurse shall be considered to be competent when he/she consistently  
26 demonstrates the ability to transfer scientific knowledge from social, biological and physical  
27 sciences in applying the nursing process, as follows:

1       "(1) Formulates a nursing diagnosis through observation of the client's physical condition  
2 and behavior, and through interpretation of information obtained from the client and others,  
3 including the health team.

4       "(2) Formulates a care plan, in collaboration with the client, which ensures that direct and  
5 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and  
6 for disease prevention and restorative measures.

7       "(3) Performs skills essential to the kind of nursing action to be taken, explains the health  
8 treatment to the client and family and teaches the client and family how to care for the client's  
9 health needs.

10       "(4) Delegates tasks to subordinates based on the legal scopes of practice of the  
11 subordinates and on the preparation and capability needed in the tasks to be delegated, and  
12 effectively supervises nursing care being given by subordinates.

13       "(5) Evaluates the effectiveness of the care plan through observation of the client's physical  
14 condition and behavior, signs and symptoms of illness, and reactions to treatment and through  
15 communication with the client and health team members, and modifies the plan as needed.

16       "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve  
17 health care or to change decisions or activities which are against the interests or wishes of the  
18 client, and by giving the client the opportunity to make informed decisions about health care  
19 before it is provided."

20       9.    Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
21 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
22 licensee or to render a decision imposing discipline on the license.

23       10.   Section 118, subdivision (b), of the Code provides that the expiration of a license  
24 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period  
25 within which the license may be renewed, restored, reissued or reinstated.

26       11.   Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
27 administrative law judge to direct a licensee found to have committed a violation or violations of  
28

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case.

### 3 FACTUAL BACKGROUND

4 12. On or about August 8, 2006, Respondent was employed as a registered nurse at  
5 Canaan Healthcare Center in Menlo Park, California, a long term care facility. Respondent was  
6 working the night shift on the night of August 8, 2006, and was responsible for supervising three  
7 certified nursing assistants (CNA's) on the ward. Between 2:57 a.m. and 3:45 a.m., while on  
8 duty, Respondent slept at the nurse's station. During this time, one of the male CNA's entered  
9 the room of a non-ambulatory female patient and raped her. The resident activated her call light  
10 for help, but Respondent did not see it since she was asleep.

### 11 FIRST CAUSE FOR DISCIPLINE

#### 12 (GROSS NEGLIGENCE)

13 13. Respondent is subject to disciplinary action under section 2761(a)(1) in that she was  
14 grossly negligent when she slept during her shift and a female resident was raped by a CNA, as  
15 alleged in paragraph 12. above.

### 16 SECOND CAUSE FOR DISCIPLINE

#### 17 (INCOMPETENCE)

18 14. Respondent is subject to disciplinary action under section 2761(a)(1) in that she was  
19 incompetent when she slept during her shift and a female resident was raped by a CNA, as  
20 alleged in paragraph 12. above. Respondent failed to effectively supervise nursing care being  
21 given by subordinates, per California Code of Regulations, title 16, section 1443.5(4).

### 22 THIRD CAUSE FOR DISCIPLINE

#### 23 (UNPROFESSIONAL CONDUCT)

24 15. Respondent is subject to disciplinary action under section 2761(a) in that she acted  
25 unprofessionally when she slept during her shift and a female resident was raped by a CNA, as  
26 alleged in paragraph 12. above.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 657048, issued to Yiping Bo;
2. Ordering Yiping Bo to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: \_\_\_\_\_

9/2/10

*Louise R. Bailey*  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant